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10/505,306

08/20/2004

Nicholas A Oxley

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SUITE 1201

NEW HAVEN, CT 06510

EXAMINER

CHAN, KO HUNG

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|-------------------------------|-----------------------------------|--|
| Office Action Summary | Application No. 10/505,306 | Applicant(s) OXLEY, NICHOLAS A | |
| | Examiner Korie H. Chan | Art Unit 3632 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2007.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,7,8 and 12-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4,7,8 and 12-14 is/are allowed.
- 6) ☒ Claim(s) 15-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

Claims 15 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 15 and 16 is vague and indefinite as it depends from cancelled claim 10. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. As a reminder to applicant, note that claims 11 and 12 which depends from claim 1 have the same recitation as claims 15 and 16, and therefore, claims 15 and 16 should not be made also to depend from claim 1 since that would create duplication of claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 17-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Winters (US patent no. 5,690,303) or Mooser (US patent no. 2,793,468) in view of Sumner (US patent no. 6,464,296) and further in view of Schultz (US patent no. 4,432,116).

Winters discloses an article of furniture comprising a self stabilizing support comprising a first (24 and 26) and second pair of legs (34 and 36), means (14) connected to the first pair of legs for supporting the article of furniture (12), a bearing (62, figure 2A) acting between the first and second pair of legs and allowing the second pair of legs to pivot with respect to the first pair of legs about an axis (horizontal axis on a horizontal plane), whereby the four legs of the first and second pair can, by suitably pivoting the second pair of legs with respect the first pair be firmly planted on an uneven surface to support the structure and damping means (pad 42, figure 3) to dampen and resist pivoting movement of the second pair of legs about the bearing; wherein the only substantial relative motion between the first and second pairs of legs is the pivoting about the axis.

Mooser discloses an article of furniture comprising a self stabilizing support comprising a first (12) and second (13) pair of legs (12 and 14), means (14) connected to the first pair of legs for supporting the article of furniture (15), a bearing (16) acting between the first and second pair of legs and allowing the second pair of legs to pivot with respect to the first pair of legs about an axis (horizontal axis on a horizontal plane), whereby the four legs of the first and second pair can, by suitably pivoting the second pair of legs with respect the first pair be firmly planted on an uneven surface to support the structure and damping means (17) to dampen and resist pivoting movement of the second pair of legs about the bearing.

However, neither Winters nor Mooser disclose the damping means is of fluid type dampers. To use fluid displacement type dampers are old and well-known in the furniture art as demonstrated by Sumner (Col. 2, lines 64-68). It would have been obvious to one of ordinary skill in the art to have substitute either Winter's or Mooser's damper arrangement with a fluid displacement type dampers as such is old and well-known in the art as taught by Sumner.

Either Winters and Sumner combined or Mooser and Sumner combined demonstrated all the claimed features of applicant's invention except for the fluid damper having a body of viscous fluid is of dilatant composition. Schultz teaches a fluid damper having a body of viscous fluid of silicone fluid (col. 3, line 62) which is a equivalent to dilatant composition type damper as disclosed by applicant (page 7, line 26) with bearing having a shaft, a bushing, and a chamber (41) between the shaft (22) and the bushing (34) in which the body of viscous fluid is accommodated. It would have been obvious to one of ordinary skill in the art to have made the fluid damper of either Winters and Sumner combined or Mooser and Sumner combined with a body of viscous silicone fluid is accommodated as such is old and well known as demonstrated by Schultz. Furthermore it would have been an obvious matter of design choice to have chosen a dilatant composition as such are old and well-known damper fluid and is equivalent damper to the body of silicone fluid.

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over either Winters (US patent no. 5,690,303) or Mooser (US patent no. 2,793,468) in view of Sumner (US patent no. 6,464,296) and Schultz as applied to claim 21 above, and

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further in view of Brentham (US patent no. 4,448,412). Either Winters, Sumner, and Schultz combined or Mooser, Sumner, and Schultz combined demonstrated all the claimed features of applicant's invention except for the fluid damper is of the piston and cylinder type. Such piston and cylinder type fluid damper is old and well-known as demonstrated by Brentham which shows fluid damper 60 with a cylindrical piston (74) and cylinder (68) acting between the chair (at 62) and the pivoting structure (64) to resist pivoting movement of the pivoting structure relative to the chair. It would have been obvious to one of ordinary skill in the art to have modify the support of either Either Winters, Sumner, and Schultz combined or Mooser, Sumner, and Schultz combined such that the fluid damper is of the piston and cylinder type as such is conventional and well known as demonstrated by Brentham.

Allowable Subject Matter

Claims 1-4, 7, 8, 12-14 are allowed.

Response to Arguments

Applicant's arguments filed 3/15/2007 have been fully considered but they are not persuasive. Applicant argues that Schultz teaches the damping fluid is silicone fluid but does not teach dilatant composition. On the other hand, applicant acknowledge that the dilatant composition is an alternative to the silicone gel disclosed by Schultz. Since applicant did not invent dilatant composition, it is examiner's position that such it would have been an obvious matter of design choice to use dilatant composition instead of silicone gel as these are equivalent dampers.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Korie H. Chan whose telephone number is 571-272-6816. The examiner can normally be reached on Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on (571)272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Korie H. Chan
Primary Examiner
Art Unit 3632

khc
May 25, 2007